

November 27, 2012

A regular meeting of the Council of the City of Bedford, Virginia, was held in the Council Hall of the Municipal Building at 7:00 p.m., November 27, 2012.

Members present: Mayor W. D. Tharp; Councilwoman Mary L. Flood; Councilman Guy E. Murray, Jr.; Councilman Steve C. Rush; Councilman C. G. Stanley, Jr.; Councilman James A. Vest; and Vice Mayor Robert T. Wandrei

Members absent: None

Staff present: City Manager Charles P. Kolakowski; City Attorney W. W. Berry, IV; and Clerk of the Council Teresa W. Hatcher.

Mayor Tharp opened the meeting and led all present in saying the Pledge of Allegiance to the Flag.

Mayor Tharp declared that the minutes of a regular Council meeting held on November 13, 2012, were approved as distributed.

City Manager Kolakowski reported on the following:

- The reorganization meeting needs to be scheduled – the first day after January 1st is when the meeting is normally held, which would be January 2, 2013.

It was the consensus of Council to hold the reorganization meeting on January 2, 2013, at 6:00 p.m.

The City Manager continued with his report:

- Reviewed events of the holiday season: tree lighting at Centertown Plaza on November 30; the annual Christmas Parade on December 1 at noon – asked citizens to support local businesses, stores, and restaurants
- Asked for two items to be added to the agenda: discussion on the Charter for the town; and a closed session on award of a public contract involving the expenditure of public funds

City Manager Kolakowski read aloud the Notice of Public Hearing as follows:

**NOTICE OF PUBLIC HEARING
ON THE FORMATION OF THE BEDFORD
REGIONAL WATER AUTHORITY**

A public hearing will be held by the City Council of the City of Bedford, Virginia, on November 27, 2012, at 7:00 p.m. at the Council Chambers, Bedford, Virginia, for the purpose of receiving public comment on the formation of the Bedford Regional Water Authority (the “Authority”) and on the adoption of its

November 27, 2012

Articles of Incorporation of the Authority and to receive the water and sewer utility assets and liabilities of the City of Bedford and of the Bedford County Public Service Authority and to take over the existing water and sewer systems in Bedford County and to provide water and sewer service in the incorporated and unincorporated areas of Bedford County, Virginia. The City Council will also name three directors to the Authority and will approve the terms of a Comprehensive Agreement governing the formation of the Authority and the transfer of the assets and liabilities from the City of Bedford and form the Bedford County Public Service Authority. The City Council envisions that the Bedford County Public Service Authority will be dissolved in the second half of 2013 once the Authority takes over its operations. A copy of the resolution to be adopted by the City Council of the City of Bedford, Virginia, may be obtained at the Office of the Clerk of the City Council of the City of Bedford, Virginia, located at 215 East Main Street, Bedford, Virginia.

The City Council of the City of Bedford, Virginia, will vote at the public hearing on approval of a consolidation Agreement to be dated as of October 31, 2012, referenced in the resolution that is necessary for the formation of the Bedford Regional Water Authority and the transfer of the City water and sewer assets and liabilities to such new authority.

All citizens are cordially invited to attend and state their view thereon.

City Council of the City of Bedford

Mayor Tharp opened the public hearing at 7:05 p.m. As there were no comments, the Mayor closed the public hearing at 7:05 p.m.

The City Manager read aloud the public hearing notice:

**NOTICE OF PUBLIC HEARING
PROPOSAL TO CLOSE TWO MEDIAN CROSSOVERS
AND OPEN A NEW MEDIAN CROSSOVER
ON ROUTE 460 IN THE CITY OF BEDFORD**

Notice is hereby given that the Bedford City Council will conduct a public hearing on Tuesday, November 27, 2012, at 7:00 p.m. to receive public comment on a proposal to close two median crossovers and open a new median crossover on Route 460 in the City of Bedford.

The two median crossovers proposed to be closed include the crossover at Woodhaven Drive and the crossover located approximately 0.2 mile west of Woodhaven Drive.

November 27, 2012

The new median crossover is proposed to be constructed to serve realigned Woodhaven Drive, Harmony in Bedford, and the realigned Ole Turnpike Drive.

This request is being initiated by the developer of Harmony in Bedford and in cooperation with the City of Bedford and Bedford County. Ultimately, VDOT has the authority to approve or deny this request. Prior to their consideration, the County and City will receive public input and consider a resolution of support.

The City Council public hearing will be held in the Municipal Building, 2nd Floor, 215 E. Main St., Bedford, VA. Information on this request is available for public inspection at the City Manager's Office, Municipal Building, 215 E. Main St., Bedford, VA., telephone (540)587-6001. Persons affected may appear and will be provided opportunity to present their views.

City Council of the City of Bedford

Mayor Tharp opened the public hearing at 7:07 p.m.

Mr. George Aznavorian, developer of Harmony in Bedford, gave members of Council Exhibit 36 of the Bedford County Route 460 West Corridor Study that was conducted in 2005 and adopted by Bedford County. He explained the removal of existing crossovers and the construction of a new crossover. Mr. Aznavorian asked for Council's support of his request.

Mayor Tharp complimented Mr. Aznavorian on his patience and persistence in working with the City and the County

Mr. Aznavorian stated that City Manager Kolakowski and the City have been great to work with and said he appreciated the City's pro-business minded position on this.

As there were no further comments, the Mayor closed the public hearing at 7:17 p.m.

Mayor Tharp said Council would like to give an award to Russell Stevens who has been in the Fire Department for about forty-eight years and has responded to over 10,000 emergency calls.

The Clerk of Council read aloud the following Proclamation:

PROCLAMATION

WHEREAS, Russell Stevens has served the Bedford Volunteer Fire Company as a member with distinction since July 11, 1974; and

November 27, 2012

WHEREAS, Mr. Stevens has faithfully served the department as Lieutenant, Captain, Deputy Chief, Chief of Department and currently as Assistant Chief; and

WHEREAS, Russell Stevens has spent countless hours obtaining training to better provide fire and emergency medical services to the citizens of our community; and

WHEREAS, Russell Stevens has been instrumental in training many Fire & EMS providers not only in Bedford City and County, but throughout the entire Commonwealth of Virginia; and

WHEREAS, during his tenure, he has responded to over 10,000 emergency calls for service; and

WHEREAS, Russell Stevens has been a vital part in keeping the Bedford Volunteer Fire Company as “Bedford’s Bravest”;

NOW THEREFORE, BE IT PROCLAIMED, that the City of Bedford recognizes Russell Stevens for his tireless efforts on behalf of our community; and

BE IT FURTHER PROCLAIMED, that the Mayor of the City of Bedford on behalf of all the citizens of the City of Bedford honor and thank Russell Stevens for his tremendous effort and contributions to the betterment of our Bedford Community.

City Manager Kolakowski reported that City Council, the Board of Supervisors of Bedford County, and the Board of Directors of the Bedford County Public Service Authority (BCPSA) and their respective staffs have negotiated an agreement to form a new authority (the Bedford Regional Water Authority) to operate a consolidated public water and sewer system in Bedford County and in the new Town of Bedford. The agreement will take effect on July 1, 2013, or such later date as may be set by the three judge court which is scheduled to rule in the Voluntary Settlement Agreement on December 18, 2012. The proposed agreement calls for the City and the BCPSA to transfer all of their sewer and water operations to the new Authority. Notice of public hearings upon the formation of the new Authority and the transfer of assets was advertised in the Bedford Bulletin as required by state law.

Mr. Kolakowski stated that after the advertisement appeared in the paper, the parties agreed to an amendment of the agreement as advertised in order to incorporate minor changes. The minor changes include an agreement by the City to transfer to the new Authority a different dump truck and an agreement that a crash attenuation trailer would be retained by the City subject to use by the new Authority, a change in certain areas of the City reservoir watershed to be conveyed to the new Authority, an agreement by each of the three parties to share start-up costs, and a provision that the agreement is subject to a bond holding agency’s approval of transfer assets to the new Authority.

November 27, 2012

City Manager Kolakowski said the Board of Supervisors and the BCPSA board have approved execution of the Agreement and the amendment. The City Manager recommended that the Council adopt the prepared resolution approving formation of the new Authority and execution of the Agreement and the Amendment.

On motion by Councilman Murray, seconded by Councilman Stanley, voted upon and carried unanimously by a roll call vote, Council adopted the prepared resolution approving formation of the new Authority and execution of the Agreement and the Amendment. Roll call vote follows:

Councilwoman Flood	aye
Councilman Murray	aye
Councilman Rush	aye
Councilman Stanley	aye
Councilman Vest	aye
Vice Mayor Wandrei	aye
Mayor Tharp	aye

The resolution follows as adopted:

IN THE CITY COUNCIL OF THE CITY OF BEDFORD, VIRGINIA,
The 27th day of November, 2012

**A RESOLUTION APPROVING THE TERMS OF
A CONSOLIDATION AGREEMENT AND THE
CONVEYANCE BY THE CITY OF BEDFORD
OF ITS SEWER AND WATER UTILITY ASSETS
AND LIABILITIES TO THE
BEDFORD REGIONAL WATER AUTHORITY
TO BE FORMED IN ACCORDANCE WITH
VIRGINIA CODE 15.2-5102**

WHEREAS, the City Council, being the governing board of the City of Bedford (“Bedford”), has determined that it is in the best interests of its citizens and water and sewer utility customers to enter into a Consolidation Agreement among Bedford, the County of Bedford, Virginia (“Bedford County”) and the Bedford County Public Service Authority (the “BCPSA”) dated October 31, 2012 (the “Consolidation Agreement”); and

WHEREAS, Bedford County, by a resolution adopted on November 12, 2012 and the BCPSA by a resolution adopted on November 20, 2012 determined that it was in the best interests of their respective citizens and water and sewer utility customers that it enter into a Consolidation Agreement among Bedford, Bedford County and the BCPSA dated October 31, 2012 (the “Consolidation Agreement”) and an amendment as to the assumption of bonds, transfer of assets, and for the payment of startup costs of the new Authority; and

November 27, 2012

WHEREAS, BCPSA will convey its assets and liabilities related to its water and wastewater utilities to the Bedford Regional Water Authority to be formed pursuant to the provisions of the Virginia Water and Waste Authorities Act, Chapter 51, Title 15.2 of the 1950- Code of Virginia, as amended ("the Act"); and

WHEREAS, the City Council desires to approve Bedford's entering into the Consolidation Agreement and Bedford's conveying all of its water and wastewater assets and liabilities to the Bedford Regional Water Authority by the adoption of this resolution to be made concurrently with the resolutions adopted by Bedford County and the BCPSA, and a public hearing has been held in accordance with the requirements of §15.2-5104 of the Act; and

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Bedford as follows:

1. Approval of the Consolidation Agreement. The City Council hereby determines that it is in the best interests of the citizens and water and waste water utility customers of the City of Bedford that the City enter into the Consolidation Agreement and hereby authorizes and directs the Mayor and the City Clerk to execute and deliver the Consolidation Agreement substantially in the form presented to this meeting, with such minor revisions and adjustments as the Mayor shall approve; to execute the amendment to the Consolidation Agreement; and to execute and file with the State Corporation Commission the Articles of Incorporation of the Bedford Regional Water Authority contained in Section 3 of this Resolution substantially in the form contained in this Resolution, with such minor revisions and adjustments as the Major shall approve.

2. Appointment and Confirmation of Members. Bedford County, by resolution has appointed three members to the Board of the Bedford Regional Water Authority, and the City Council intends to appoint three members at its next meeting.

3. Articles of Incorporation. The City Council does hereby FIND as a matter of fact that inclusion in the Articles of Incorporation of the Bedford Regional Water Authority of preliminary estimates of capital costs, proposals for specific projects to be undertaken by the Authority, and preliminary estimates of initial rates is impractical. The Articles of Incorporation of the Bedford Regional Water Authority are herby approved as follows:

**ARTICLES OF INCORPORATION
OF THE
BEDFORD REGIONAL WATER AUTHORITY**

The Board of Supervisors of Bedford County, Virginia and the City Council of the City of Bedford, Virginia have, by concurrent resolutions, adopted the following Articles of Incorporation of the Bedford Regional Water Authority, pursuant

November 27, 2012

to the Virginia Water and Waste Authorities Act (Chapter 51, Title 15.2 of the 1950 Code of Virginia, as amended) (the “Act”).

ARTICLE I

The name of the Authority shall be the Bedford Regional Water Authority and the address of its principal office is 1723 Falling Creek Road, Bedford VA 24523.

ARTICLE II

The names of the political subdivisions participating in the Authority are Bedford County, Virginia and the City of Bedford, Virginia (collectively, the “Localities”) each of which hereby acknowledges, covenants, and agrees that these Articles of Incorporation shall not be further amended or changed without the express agreement of each of the governing bodies of each of the Localities.

ARTICLE III

The initial Board of the Authority shall consist of six members. The names, addresses, and terms of office of the initial members of the Bedford Regional Water Authority are as follows:

Term of Office		beginning	ending
Name	Address		
1.			
2.			
3.			
4.			
5.			
6.			

The governing body of each Locality has initially appointed the number of members set forth opposite its name below:

Bedford County – Three, for terms of 2, 3 and 4 years

City of Bedford – Three, for terms of 2, 3 and 4 years

The seventh initial member will be nominated by the initial six (6) members and confirmed by the governing bodies of each of the Localities for an initial term of four (4) years. If no nominee for the seventh position is approved by the Localities within forty-five (45) days of being nominated and such nomination communicated to the Localities, such appointment shall be made on the application of the Authority by the Judge of the Circuit Court of Bedford County, Virginia. In case an initial member dies, resigns, or is disqualified, and upon the expiration of the initial term of any member, successors shall be appointed by the same method as for the initial members.

If either Locality fails to appoint a successor within 45 days of the end of any term or tenure (such time period to be extended another 30 days at the request of any

November 27, 2012

Locality made within such 45 day period) a successor shall, on the Authority's application, be appointed by the Judge of the Circuit Court of Bedford County, Virginia.

After the initial terms, each Board member shall be appointed for a four-year term ending on December 31 in the fourth year and shall serve until a successor is appointed and qualified. No member may serve more than two (2) successive full four- (4) year terms, but may serve again after not serving for four (4) years.

Each member shall be reimbursed by the Authority for the amount of actual expenses incurred in the performance of Authority duties.

After the expiration of the first four (4) year term for the Board positions of initial members who served for two (2) years, all further appointments will be based upon proportionate representation of the Localities according to the total number of equivalent residential connections ("ERCs") for both water and sewer in each jurisdiction based on an equivalent rate calculation of two hundred gallons per day per connection. This calculation shall be made six months prior to the expiration of the term. In no event shall either Bedford or Bedford County appoint and have fewer than two (2) members of the Board of Directors of the Authority.

ARTICLE IV

The purposes for which the Authority is being organized are to exercise all the powers granted to the Authority to acquire, finance, construct, operate, manage and maintain water, waste water, sewage disposal and other facilities pursuant to the Virginia Water and Waste Authorities Act, Chapter 51, Title 15.2 of the 1950 Code of Virginia, as amended ("Act"). The Authority shall have all of the rights, powers, and duties of an authority under the Act.

On or before December 31, 2016 the Authority shall make every reasonable effort to construct a water line of sufficient size to connect the existing City of Bedford and the Bedford County Public Service Authority water systems in accordance with the terms of Principles Governing the Creation of the Bedford Regional Water Authority attached as Exhibit 7 to that Voluntary Settlement of Transition to Town Status and Other Related Issues Between the City of Bedford and the County of Bedford, dated August 2012.

The Authority will substantially equalize rates and establish volume rates for large customers in accordance with that Consolidation Agreement dated as of October 31, 2012 (the "Consolidation Agreement") by and among the City of Bedford, Virginia, Bedford County, Virginia and the Bedford County Public Service Authority.

The Authority will take all other action contemplated to be taken by the Authority in the Consolidation Agreement.

It is not practicable to set forth herein information regarding preliminary estimates of capital costs, proposals for specific projects to be undertaken or initial rates for the proposed projects.

ARTICLE V

The Authority shall serve the incorporated and unincorporated areas of Bedford County, Virginia and to the extent permitted by the Act such other towns or public or private entities as the Authority may determine upon the terms and conditions established pursuant to appropriate contracts.

ARTICLE VI

The Authority shall cause an annual audit of its books and records to be made by the State Auditor of Public Accounts or by an independent certified public accountant at the end of each fiscal year and a certified copy thereof to be filed promptly with the governing body of each of the incorporating political subdivisions.

ARTICLE VII

The term of existence of the Authority shall be 50 years from the effective date of the Members' resolutions authorizing these Articles.

[end of form of Articles of Incorporation]

4. Action to be Taken. The appropriate officers of Bedford shall take all action necessary or convenient to fulfill and comply with the terms of the Consolidation Agreement and to file and otherwise cause the Articles of Incorporation to become effective.

5. Approval of Fees to Be Paid Authority Directors. The City of Bedford hereby approves, pursuant to Virginia Code §15.2-5113.C., compensation of \$250 per month to be paid to each director of the Bedford Regional Water Authority.

6. Effective immediately. This Resolution shall take effect immediately upon its adoption.

City Manager Kolakowski said the City is requesting the Virginia Department of Transportation to close the median crossover at the intersection of existing Route 1110 (Ole Turnpike Drive), Woodhaven Drive, and Route 460, and also the median crossover located approximately 0.20 mi. west of the aforementioned intersection, and allow a new median crossover to be constructed approximately 0.08 mi. west of the aforementioned intersection for use by the realigned Ole Turnpike Drive, the realigned Woodhaven Drive, and the "Harmony In Bedford" development. All of this is the result of four projects affecting Route 460 that will be constructed by the end of 2014. B. A. Investors, LLC will be developing "Harmony In Bedford" on the south side of Route 460, the Virginia Department of Transportation will be reconstructing and lowering the west bound side of Route 460 to meet current design standards, the County of Bedford will be realigning Woodhaven Drive to connect to the new street system within "Harmony In Bedford", and the City of Bedford will be realigning Ole Turnpike Drive to run north of the Virginia State Police office. All these projects will meet at the new proposed median

November 27, 2012

crossover located approximately 0.08 mi. west of the existing Route 1110 (Ole Turnpike Drive). The City Manager said that Council was requested to adopt the resolution requesting the Virginia Department of Transportation to close the aforementioned median crossovers and open a new median crossover on Route 460 in the City of Bedford.

Councilman Rush moved that Council adopt the resolution regarding the crossovers on Route 460. The motion seconded by Councilman Vest.

Vice Mayor Wandrei stated that he does legal work for B.A. Investors, LLC.

The motion was then voted upon and carried unanimously by a roll call vote, Council adopted the resolution regarding the crossovers on Route 460. Roll call vote follows:

Councilman Murray	aye
Councilman Rush	aye
Councilman Stanley	aye
Councilman Vest	aye
Vice Mayor Wandrei	aye
Councilwoman Flood	aye
Mayor Tharp	aye

The resolution follows as adopted:

**RESOLUTION OF THE
CITY COUNCIL OF THE CITY OF BEDFORD
CLOSING TWO MEDIAN CROSSOVERS AND OPENING
A NEW MEDIAN CROSSOVER ON ROUTE 460
IN THE CITY OF BEDFORD**

WHEREAS, in accordance with the Virginia Department of Transportation (“VDOT”) construction allocation procedures, it is necessary that a request by council resolution be made in order that the Department close and open median crossovers in the City of Bedford; and

WHEREAS, “VDOT” will be reconstructing the westbound lanes of Route 460 to meet current design standards (improved sight distance) and allow for a future median crossover approximately 0.08 mi. west of existing Route 1110 (Ole Turnpike Drive) through “VDOT” Project Number 0460-009-141, P101, R201, M501 from 0.38 mi. W. of Ole Turnpike Drive to 0.09 E. of Ole Turnpike Drive; and

WHEREAS, B A Investors LLC will be developing “HARMONY IN BEDFORD” on the south side of Route 460 which will require a main access to Route 460 approximately 0.08 mi. west of existing Route 1110 (Ole Turnpike Drive); and

November 27, 2012

WHEREAS, the County of Bedford will be realigning Woodhaven Drive to connect to the new street system within “HARMONY IN BEDFORD”; and

WHEREAS, the City of Bedford will be realigning Ole Turnpike Drive to the north of the Virginia State Police office to intersect the north side of Route 460 at approximately 0.08 mi. west of existing Route 1110 (Ole Turnpike Drive); and

WHEREAS, a new median crossover on Route 460, approximately 0.08 mi. west of existing Route 1110 (Ole Turnpike Drive), will be opened to accommodate the realignment of Ole Turnpike Drive, the realignment of Woodhaven Drive, and the “HARMONY IN BEDFORD” development; and

WHEREAS, two existing median crossovers will be closed, the one located at the intersection of Route 1110 (Ole Turnpike Drive), Woodhaven Drive, and Route 460, and the one located approximately 0.20 mi. west of the aforementioned intersection;

NOW, THEREFORE BE IT RESOLVED that the Council of the City of Bedford, Virginia requests the Virginia Department of Transportation close the existing median crossover at the intersection of Ole Turnpike Drive, Woodhaven Drive, and Route 460, and the median crossover located approximately 0.20 mi. west of the aforementioned intersection, and allow a new median crossover to be constructed and opened approximately 0.08 mi. west of existing Route 1110 (Ole Turnpike Drive).

The City Manager reviewed items in a draft Town Charter. The reference to the pre-reversion election to council in May 2013 will be removed from the draft charter and will be referenced in the court order with the Special Court on December 18, 2012. The City Manager said that the Town Charter will not become effective until the City reverts to a town and the election would be prior to the reversion.

Vice Mayor Wandrei pointed out several items in the draft charter that may need changing. The City Manager said that the document is still under review by Mr. Carter Glass and he would bring this to the attention of Mr. Glass.

The Vice Mayor said Section 14 in the Town Charter regarding the scheduling of the organization meeting could be made more readable. Mr. Wandrei also brought up in Section 19 the wording of publishing ordinances and suggested the wording should be as in the State Statute, as “a newspaper of general circulation in the jurisdiction.”

City Manager Kolakowski said those changes would be made in the final document. He said the town charter could be altered by future councils or even the current council.

City Attorney Berry reported that Mr. Glass is going to try to have something prepared this week that he could submit to Delegate Lacy Putney and Senator Steve Newman so that the bill can be prepared to introduce into the Assembly. Mr. Berry said that while the

November 27, 2012

legislative advisors in Richmond are working on it, additional changes can be made to it. He said it will be a process that will take several weeks.

The City Manager said that what may be proposed is to push off the election caused by a population change for a two year period, subject to the proof that the change in population does exceed five percent.

Mr. Kolakowski said the other special legislation involves a technical certification that the County would be able to utilize the current assessments of the City for its real estate tax until they have their reassessment which will occur after the first year.

Mayor Tharp announced that he would not seek another term as Mayor nor Vice Mayor. The Mayor stated he appreciated the confidence that Council has shown him over the past years.

Members of Council expressed appreciation for Mayor Tharp's service.

Vice Mayor Wandrei moved that Council adjourn into closed session pursuant to Section 2.2-3711(a)(30), of the Code of Virginia of 1950, as amended, for discussion of the award of a public contract involving the expenditure of public funds, where open discussion would adversely affect negotiating strategy of the public body. Councilman Murray seconded the motion. The motion was voted upon and carried unanimously by the following roll call vote:

Councilman Rush	aye
Councilman Stanley	aye
Councilman Vest	aye
Vice Mayor Wandrei	aye
Councilwoman Flood	aye
Councilman Murray	aye
Mayor Tharp	aye

Council adjourned into closed session at 7:37 p.m. The following non-council members attended: City Manager Kolakowski, City Attorney Berry, Assistant City Manager Warner, Director of Public Services Weddle, and Council member elect Stacey Hailey.

Council reconvened into open session at 7:52 p.m.

The Clerk of Council read aloud the following resolution:

BE IT RESOLVED that the Council of the City of Bedford hereby certifies that (1) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (2) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Council.

November 27, 2012

On motion by Councilman Murray, seconded by Vice Mayor Wandrei, voted upon and carried unanimously by a roll call vote, Council adopted the resolution. Roll call vote follows:

Councilman Stanley	aye
Councilman Vest	aye
Vice Mayor Wandrei	aye
Councilwoman Flood	aye
Councilman Murray	aye
Councilman Rush	aye
Mayor Tharp	aye

Mayor Tharp adjourned the meeting at 7:53 p.m.